

**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 04/17/01  
AGENDA ITEM \_\_\_\_\_  
WORK SESSION ITEM WS 2

**TO:** Mayor and City Council

**FROM:** City Attorney

**SUBJECT:** Review and Comment on the City of Hayward's Residential Rent Stabilization

**Recommendation:**

It is recommended that the City Council review and comment on this report.

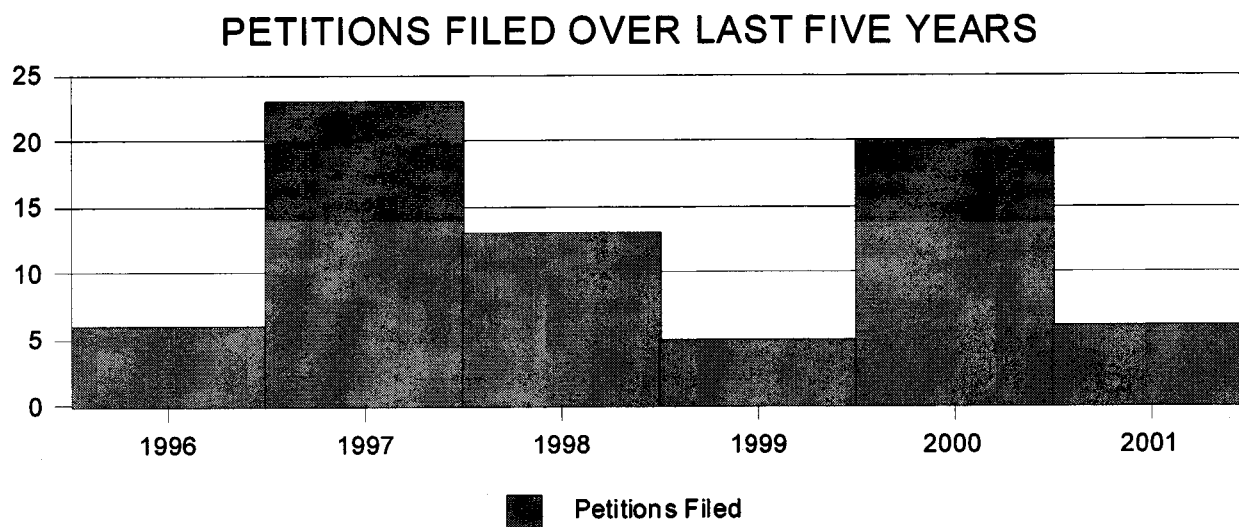
**Background:**

The City of Hayward's Residential Rent Stabilization Ordinance (City of Hayward Ordinance No. 83-023 C.S., as Amended Through Ordinance No. 96-08) ("the Rent Ordinance") was first enacted in 1983. In 1996, the City Council adopted amendments to the Ordinance, including a provision that the effectiveness of the Ordinance be reviewed in April 2001. The following report provides a summary of the activity in the Rent Stabilization Program and discusses the impact of the Costa-Hawkins Rental Housing Act (Civil Code section 1954.50 et seq.), originally enacted in 1995.

During the last 5 years, the volume of complaints received regarding escalating rents has increased dramatically. The City Attorney's office currently receives approximately 120 telephone calls or inquiries a week from tenants whose landlords have significantly increased their rents. The Rent Ordinance controls approximately 11% of the rental units in the City. The Rent Ordinance does not control the base rent for rent controlled units. When a rent-controlled unit is voluntarily vacated, the landlord may set the initial rent for the new tenant at the market rate. Once the unit is occupied, the subsequent increases in rent are controlled by the Rent Ordinance.

### Units Subject to Rent Control

When the Rent Ordinance was enacted in 1983, approximately 9,400 units were subject to rent control. Many more units are either exempt from or not covered by the Rent Ordinance. For example, the Rent Ordinance exempts units located in a structure for which a certificate of occupancy is first issued after July 1, 1979. The Rent Ordinance allows voluntarily vacated units to be decontrolled if the unit complies with the City's Housing Code and if \$200-\$500 (depending on the size of the unit) worth of improvements are made to the unit. Due to this decontrol process, the number of units now subject to rent control has decreased to about 2,200. There are currently approximately 19,842 rental units in the City including the 2,200 rent controlled units. In addition, and as discussed below, the Costa-Hawkins Act restricts the City's authority to regulate residential rents.



#### **Rental Petitions**

|             |                                  |
|-------------|----------------------------------|
| <b>1996</b> | <b>6 Petitions filed</b>         |
| <b>1997</b> | <b>23 Petitions filed</b>        |
| <b>1998</b> | <b>13 Petitions filed</b>        |
| <b>1999</b> | <b>5 Petitions filed</b>         |
| <b>2000</b> | <b>20 Petitions filed</b>        |
| <b>2001</b> | <b>6 Petitions filed to date</b> |

Despite the high volume of telephone calls regarding escalating rents, since the date of the last amendments to the Ordinance in 1996, there have been only approximately 60 petitions filed.

## **Rental Fees**

Pursuant to the Council's direction in 1995, the City has absorbed the majority of the administrative costs of managing the City's Rent Stabilization Programs. The Council's decision has allowed the City to operate the program while keeping the annual fees at a nominal rate for landlords and tenants. In 1996, the annual fee was \$8.13 per unit. By 2000, the annual fee dropped to \$1.97 per unit. The drop in fees is due to the following two factors: 1) the Council's decision to have the City absorb the majority of the administrative costs attributable to the program; and 2) the relatively small amount of activity generated by the program since the initial years following its inception.

## **Background on Costa-Hawkins Act**

The Costa-Hawkins Act (the "Act") represents the California Legislature's first major effort to reduce local controls on maximum rents chargeable to residential tenants. As the California courts have recognized, the Legislature intended to fully occupy the field of rent control/vacancy decontrol through the Act. Under the Act, some residential rental properties are completely exempt from locally-imposed rent ceilings, and others are subject to local rent ceilings only as they apply to rent raises for existing tenants. However, the Act does not completely preclude local residential rent control laws. The Act does not affect local jurisdictions' controls on evictions nor does the Act affect mobilehome park rent controls. The Act has abolished vacancy control, which means that local rent control laws cannot cap the initial rental rate for vacated units, except where the landlord has issued a thirty day notice to terminate or has given notice of a change in the terms of the tenancy. Once a new rate is set, however, it is permissible to subject future increases to local rent control ceilings.

Newly constructed units issued a certificate of occupancy after February 1, 1995, are exempt from any rental rate controls under the Act. Also, the City is barred from enacting new rent controls on units already exempted from local controls pursuant to a local exemption for newly constructed units. As a general rule, a new tenancy in a single-family home, condominium, townhouse, stock cooperative or any unit that could be sold or transferred separately is also exempt from any rental rate controls.

## **Discussion of the City's Rent Ordinance in light of the Costa-Hawkins Act:**

In light of the Costa-Hawkins Act and subsequent litigation, the City's Rent Ordinance may require some revision. For example, the definition of "rental unit" set forth in Section 2(1) should be revised to exclude units that could be sold or transferred separately, such as a single-family home, condominium, townhouse or stock cooperative. The definition of "rental unit" would then conform with the requirements of the Act.

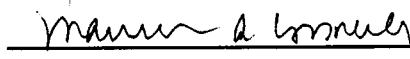
Section 8 (a) - Re-renting Following a Voluntary Vacancy, should be revised so that it is clear that this section is not placing any limitations on a landlord's ability to raise the rent when a unit is voluntarily vacated. Under the Act, a voluntary vacancy would be any vacancy other than a vacancy resulting from a 30-day notice or a notice of change in terms of the tenancy.

### **Issues for Consideration**

If there is interest in examining the City's current Rent Ordinance in light of the impact of the Costa-Hawkins Act, the Council may wish to consider the following alternatives. Some jurisdictions have counterbalanced the effect of the Act's vacancy decontrol provisions by reducing the maximum annual percentage of allowable rent increases. The City's current annual maximum rent increase is 5%. Additionally, it may be appropriate to give consideration to increasing the monetary amount of improvements required prior to decontrol of a rental unit. In addition to changing the decontrol procedures, the City Council may wish to identify other areas it would like staff to research.

Recently, the Council referred the matter of rent increases to the City's ad hoc committee, which consists of City staff and tenants' and rental property owners' representatives. The committee is currently exploring several alternatives, including modification of the Rental Ordinance and other mechanisms, to address the impact of substantial rent increases on the City's housing stock. In light of the complexity of these issues and the interrelationship between the Costa-Hawkins Act and the City's Rent Ordinance, staff proposes to return to Council for a further review of the Rent Ordinance in six months.

Prepared by:

  
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Approved by:

  
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